HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal NO. 126 OF 2006

APPLICANT INSURANCE		Oriental Insurance Com. Ltd., Branch II, Sai Nagar, Raipur (C.G.)
	VERSUS	
RESPONDENTS CLAIMANTS	1.	Smt. Sulochana, widow of late Madhukar Rao, aged 40 years.
	2.	Ku. Manisha, D/o. Late Madhukar Rao, aged 22 years.
	3.	Ku. Madhavi, D/o. Late Madhukar Rao, aged 20 years
	4.	Manish Kumar, S/o. Late Madhukar Rao, aged 19 years.
	5.	Ku. Mal, D/o. late Madhukar Rao, aged 18 years.
	6.	Ku. Megha D/o. late Madhukar Rao, aged 16 years. (Minor) through natural guardian mother Smt. Sulochana widow of Madhukar Rao
OWNER	7.	Gurdeep Singh Garcha, S/o. Shri Trilok Singh Garcha, R/o. G.E. Road, Tatibandh, Raipur, Tehsil & Dist. Raipur (CG).

Present: Shri Abhishek Sinha, learned counsel for the appellant.

ORAL ORDER
(Passed on 21st February, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ :

In this appeal preferred by the Insurance Company, the award passed by the Commissioner for Workmen's Compensation has been attacked on two grounds. The first ground is that the Commissioner has not justified in taking the monthly income of the deceased at Rs.3000/- for the purpose of computing compensation. The second ground is that the death of the

deceased has no nexus to the employment of the deceased, because, he died of heart-attack.

(2) Both the contentions are devoid of merit. The Commissioner has referred to the evidence adduced before him. Although the employer in his evidence stated that he was paying Rs. 1,500/- per month and Rs. 700/- as Dearness Allowance, the claimants have deposed before the Commissioner that the deceased was paid salary of Rs.3,000/- and Dearness Allowance of Rs.1,500/-. In the premise of the divergent pieces of evidence, the Commissioner took the income of the deceased, via- media, at the rate of Rs.3,000/- per month. In that view of the matter, we cannot take any exception to the discretion exercised by the Commissioner for Workmen's Compensation. The second contention urged before us is totally meritless. The deceased died of heart-attack while he was unloading the vehicle in the garage and reversing the vehicle. The death admittedly took place in the course of the employment. It is well settled that if a man dies out of strain generated in the course of employment, the employer is accountable and liable to pay compensation. Therefore, the death of the deceased had a direct nexus with the strain of the employment on the deceased. Therefore, the Commissioner is justified in directing the appellant Insurance Company to pay compensation.

(2) Above all, this appeal does not involve any substantial question of law which is required to be decided by this Court. The issue raised before the Court pertains to the domain of appreciation of the evidence in recording factual findings. No legal issues arise for decision making, much less any substantial legal issue. Looking from any angle, this appeal is liable to dismissed and it is accordingly dismissed. No costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Chief Justice